

Federal Deposit Insurance Corporation

§ 313.44

a request for hearing will stay the collection proceedings;

(j) That the FDIC will initiate salary offset procedures not less than 30 days from the date of the employee's receipt of the Notice of Intent to Offset, unless the employee files a timely request for a hearing;

(k) That if a hearing is held, the administrative law judge or other hearing official will issue a decision at the earliest practical date, but not later than 60 days after the filing of the request for the hearing, unless the employee requests a delay in the proceedings which is granted by the hearing official;

(l) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729 through 3731, or under any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or under any other applicable statutory authority;

(m) That the employee also has the right to request waiver of overpayment pursuant to 5 U.S.C. 5584, and may exercise any other rights and remedies available under statutes or regulations governing the program for which the collection is being made; and

(n) That amounts paid on or deducted from debts that are later waived or found not to be owed to the United States will be promptly refunded to the employee, unless there are applicable contractual or statutory provisions to the contrary.

§ 313.42 Procedures to request a hearing.

(a) To request a hearing, an employee must send a written request to the Director. The request must be received by the Director within 30 calendar days after the employee's receipt of the Notice of Intent.

(b) The request must be signed by the employee and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes sup-

port his or her position. The request for hearing must state whether the employee is requesting an oral or documentary hearing. If an oral hearing is requested, the request shall explain why the matter cannot be resolved by a review of documentary evidence alone.

§ 313.43 Failure to timely submit request for hearing.

If the Director does not receive an employee's request for hearing within the 30-day period set forth in § 313.42(a), the employee shall not be entitled to a hearing. However, the Director may accept an untimely request for hearing if the employee can show that the delay was the result of circumstances beyond his or her control or that he or she failed to receive actual notice of the filing deadline.

§ 313.44 Procedure for hearing.

(a) *Obtaining the services of a hearing official.* When the FDIC is the creditor agency and the debtor is an FDIC employee, the FDIC shall designate an administrative law judge or contact any agent of another agency designated in appendix A to 5 CFR part 581 to arrange for a hearing official. When the FDIC is the creditor agency and the debtor is not an FDIC employee (*i.e.*, the debtor is employed by another federal agency, also known as the paying agency), and the FDIC cannot provide a prompt and appropriate hearing before an administrative law judge or a hearing official furnished pursuant to a lawful arrangement, the FDIC may contact an agent of the paying agency designated in appendix A to 5 CFR part 581 to arrange for a hearing official. The paying agency must cooperate with the FDIC to provide a hearing official, as required by the FCCS.

(b) *Notice and format of hearing—(1) Notice.* The hearing official shall determine whether the hearing shall be oral or documentary and shall notify the employee of the form of the hearing. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must be held within 30 calendar days after the request is received, unless the employee requests that the hearing be delayed. If the hearing will be documentary, the